

SECRETCOR-1145
Copy 2 of 5Letter Contract No. **MB-450****12 MAY 1961**

IBM Laboratories, Inc.
A Division of IBM Corporation
Lexington, Massachusetts

Gentlemen:

1. Introduction

An order is hereby placed with the Contractor for the furnishing to the Government the supplies or services set forth in Exhibit "A" attached hereto and hereby made a part hereof.

2. Direction to Proceed

Except as otherwise expressly provided to the contrary herein, the Contractor is directed, upon its acceptance of this order, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies or performance of the services called for herein, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed at the earliest practicable date.

3. Contract Clauses Incorporated by Reference

(a) The provisions of the contract clauses set forth in the following paragraphs of the Armed Services Procurement Regulation (ASPR) and/or the Air Force Procurement Instructions (AFPI) in effect on the date hereof, and the additional clauses which are made a part of this letter contract in Exhibit "A", are hereby incorporated into this letter contract by reference, with the same force and effect as though herein set forth in full:

<u>Contract Clauses</u>	<u>ASPR</u>	<u>AFPI</u>
1. Definitions	7-103.1	7-403.1
22. Changes	None	7-403.2
3. Limitation of Cost	7-203.3	7-403.3
4. Allowable Cost, Fixed Fee and Payment	7-203.4	7-403.4
5. Inspection and Correction of Defects	None	7-403.5
6. Assignment of Claims	7-103.8	7-403.6
7. Records	7-203.7	7-403.7
8. Subcontracts	7-203.8	7-403.8
9. Utilization of Small Business Concerns	7-104.14	7-403.9
10. Termination	8-702	7-403.10
11. Excusable Delays	7-203.11	7-303.10
12. Disputes	7-103.12	7-403.12

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<u>Contract Clauses</u>	<u>ASPR</u>	<u>AFPI</u>
13. Notice and Assistance Regarding Patent Infringement	9-104	7-403.13
14. Buy American Act	6-104.5	7-404.1
15. Convict Labor	12-203	7-403.15
16. Eight-Hour Law of 1912-Overtime Compensation	12-303.1	7-403.16
17. Nondiscrimination in Employment	12-802	7-403.17
18. Officials not to Benefit	7-103.19	7-403.18
19. Covenant Against Contingent Fees	7-103.20	7-403.19
20. Patent Rights	9-107.2	7-403.20
21. Government Property	13-503	7-403.21
22. Insurance - Liability to Third Persons	7-202.22	7-403.22
23. Authorization and Consent	9-102.2	7-403.23
24. Filing of Patent Applications	9-106	7-404.3
25. Data	9-203	9-203.1
26. Military Security Requirements	7-104.12	7-404.7
27. Walsh-Healey Public Contracts Act	12-604	7-404.8
28. Gratuities	7-104.16	7-404.9
29. Negotiated Overhead Rates	3-704.1	7-404.12
30. Delay in Delivery of Data	None	7-4036
31. Superseding Instructions	7-404.14	7-4024
32. Flight Risk	None	7-4022(b)

(b) Reference in any of the clauses enumerated above to contract costs or adjustments in fixed fee, if any, and delivery schedules to the extent such are not specifically included in this Letter Contract, shall be inapplicable, except that any adjustments in amounts finally payable to the Contractor, or in time of performance required by such clauses, shall be made either at the time of settlement of Contractor's termination claims or shall be taken into account at the time of execution of the definitive contract contemplated herein.

4. Provision for Definitizing Contract

By the Contractor's acceptance hereof, it undertakes, without delay, to enter into negotiations with the Government looking to the execution of a definitive contract which will include the clauses enumerated above and all other applicable clauses then required by Federal law, Executive order, and applicable procurement regulations to be included in contracts for supplies or services of the kind herein described. The definitive contract will also contain a detailed delivery schedule, estimated cost, fixed fee, if any, terms and conditions as agreed to by the parties which may or may not be at variance with the provisions of this order. It is expected that such definitive contract will be executed prior to 30 June 1961 and will be a cost-reimbursement-type contract.

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The maximum amount for which the Government shall be liable if this contract is terminated is \$ 200,000.00, and any expenditure or obligation by the Contractor in excess of that amount, in furtherance of performance hereunder, shall be at the Contractor's own risk.

6. Termination

(a) In case a definitive contract is not executed by the date specified in the clause hereof entitled "Provision for Definitizing Contract," because of the inability of the parties to agree upon a definitive contract, this order may be terminated in its entirety by either party by delivering to the other party a notice in writing specifying the effective date of termination, which date shall not be earlier than thirty (30) days after receipt of such notice.

(b) The performance of work under this order may be terminated by the Government, in accordance with this clause, in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under this order is terminated, and the date upon which such termination becomes effective.

(c) After receipt of Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall (1) stop work under this order on the date and to the extent specified in the Notice of Termination; (2) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this order as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (4) assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; (5) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts with the approval or ratification of the Contracting Officer to the extent he may require, which approval or ratification shall be final for all purposes of this clause; (6) transfer title to and deliver to the Government, in the manner, at the times and to the extent, if any, directed by the Contracting Officer, (i) the fabrication or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (ii) the completed or partially completed plans, drawings, information, and other property which, if this order had been completed, would be required to be furnished to the Government; (7) use its best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provisions (6) of this paragraph: PROVIDED, HOWEVER, That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: AND PROVIDED FURTHER, That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this order or

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shall otherwise be credited to the price or cost of work covered by this order or paid in such other manner as the Contracting Officer may direct; (8) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (9) take such action as may be necessary or as the Contracting Officer may direct, for the protection and preservation of the property related to this order which is in the possession of the Contractor and in which the Government has or may acquire an interest. At any time after expiration of the plant clearance period, as defined in Section VIII, Armed Services Procurement Regulation, or as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: PROVIDED, That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, and if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustments to correct the list as submitted shall be made prior to final settlement.

(d) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer its termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly, but in no event later than 2 years from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such 2-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 2-year period or any extension thereof. Upon failure of the Contractor to submit a termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(e) Subject to the provision of paragraph (d) hereof, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. In the event of any termination pursuant to paragraph (a) hereof, such amount or amounts shall not include any allowance for profit or fee. In the event of any termination pursuant to paragraph (b) hereof, such amount or amounts may include a reasonable allowance for profit or fee, but only on work actually done in connection with the terminated portion of this order. Any such amount shall not exceed the amount set forth in the clause hereof entitled "Authority to Obligate Funds, and Subcontracts." Any such agreement shall be embodied in an amendment to this order and the Contractor shall be paid the agreed amount.

(f) If the Contractor and the Contracting Officer are not able to agree in whole or in part, as provided in paragraph (e) hereof, as to the amount or amounts to be paid to the Contractor in connection with the

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termination of work pursuant to this clause, the Government, without duplication of any amounts agreed upon in accordance with the above-cited paragraph (e), shall pay to the Contractor an amount determined in accordance with the applicable cost principles of the Armed Services Procurement Regulation. In the event of the termination of this order pursuant to paragraph (a) hereof, no allowance for fee or profit shall be included in the amount to be paid the Contractor.

(g) The Contractor shall have the right of appeal, under the clause entitled "Disputes" incorporated in this order by reference, from any determination made by the Contracting Officer under paragraph (d) or (f) above (including any dispute as to whether termination has in fact taken place pursuant to par. (a) hereof), except that if the Contractor has failed to submit a claim within the time provided in paragraph (d) hereof and has failed to request extension of such time, the Contractor shall have no right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (d) or (f) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due to the Contractor under this clause, there shall be deducted (1) all unliquidated advance or other unliquidated payments theretofore made to the Contractor, (2) any claim which the Government may have against the Contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; PROVIDED, HOWEVER, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition.

(j) Unless otherwise provided in this contract or by applicable statute, the Contractor, from the effective date of termination and for a period of 6 years after final settlement under this order, shall preserve and make available to the Government, at all reasonable times at the office of the Contractor without direct charge to the Government, all books, records, documents, and other evidence bearing on the cost

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and expenses under this order and relating to this work terminated, or, to the extent approved by the Contracting Officer, photographs, micro-photographs, or other authentic reproductions thereof.

7. Provisions for Execution.

The Contractor's acceptance of this order will be indicated by affixing its signature to the original and two copies thereof and returning the original and one executed copies to the Contracting Officer. The remaining copy shall be retained for your files. Such acceptance will constitute this order a contract on the terms set forth herein.

THE UNITED STATES OF AMERICA

[Redacted Signature Box]

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CONTRACTING OFFICER

ACCEPTED _____, 19

[Redacted Signature Box]

25X1

CONTRACTOR (Affix Corporate Seal)

[Redacted Signature Box]

25X1

Title _____



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EXHIBIT "A"

A. Contractor shall furnish the necessary personnel, facilities, supplies and services to accomplish the work set forth below and make delivery to the Government at the times and places specified herein.

Item 1 - Contractor shall accomplish the work as substantially set forth in Contractor's document entitled "Work Statement - Development of a Stereo Photographic Subsystem for a Reconnaissance Vehicle" dated 22 April 1961, said document hereby incorporated by reference, together with such changes as the parties hereto may agree to.

B. Delivery

Contractor shall accomplish the work set forth in Item 1 and make the required deliveries to the Government in accordance with Contractor's document incorporated by reference in Item 1.

C. System Engineering and Technical Direction

System Engineering and Technical Direction (SETD) of this program will be accomplished by Lockheed Missile System Division, Sunnyvale, California, under separate contract to the Government. The purview of SETD includes, but is not limited to, systems requirements and parameters, systems and major assembly design specifications, test specifications and procedures, systems integration, establishment and revision of program milestones, reliability, modification to systems and subsystems, and requests for design and performance waivers on end item equipment. Technical direction shall be accomplished by issue of Technical Directives by SETD which shall be approved by the Government.

D. Current Reimbursement

The Contractor shall be entitled to current reimbursement of 100% of costs incurred in the performance of work called for hereunder, up to 90% of the amount authorized for expenditure or obligation in Paragraph 5 of this Letter Contract. Invoices shall be authenticated by an officer of the Fiscal Office of the Contractor and accompanied with appropriate statements of costs incurred. For purposes of billing current costs incurred under this contract, Contractor shall use those rates which are currently approved by the cognizant military department for billing purposes under CFF contracts.

E. Government Furnished Facilities

a. Contractor is authorized to use on a no-charge-for-use basis those facilities furnished or to be hereinafter furnished under Air Force Facilities Contract No. AF33(600)-38172, provided the use of such facilities does not interfere with the purpose for which such facilities are furnished.

b. Contractor is also authorized to use at no charge such items of special tooling, test equipment and facilities generated under IFMK - LMSD Subcontracts Nos. 100-9, 100-20, and 100-30.

F. Waiver of Requirements of General Provisions

Notwithstanding the requirements of any of the General Provisions of this contract to the contrary, whenever the Contractor, in performance of the work under this contract, shall find that the requirements of any of the clauses of the General Provisions are in conflict with security instructions issued to the Contractor by the Contracting Officer or by his duly authorized representative for security matters, the Contractor shall call the attention of the Contracting Officer to such conflict and the Contracting Officer or his duly authorized representative for security matters shall (i) modify or rescind such security requirements or (ii) the Contracting Officer shall issue to the Contractor a waiver of compliance with the requirements of the General Provisions conflicting with such security requirements. Any waiver of compliance with the General Provisions of this contract issued by the Contracting Officer shall be in writing, except that the approval by the Contracting Officer of any subcontract issued hereunder by the Contractor shall be deemed to constitute approval of waiver of any clauses of the General Provisions in conflict with the stipulations of such subcontract.

G. Special Security Restrictions

The Contractor shall not reveal (i) the specific nature or any details of the work being performed hereunder or (ii) any information whatsoever with respect to the department of the Government sponsoring this contract and the work thereunder except as the Contractor is directed or permitted to reveal such information by the Contracting Officer or his duly authorized representative for security matters, and notwithstanding any clause or section of this contract to the contrary, the Contractor shall not interpret any clause or section of this contract as requiring or permitting divulgence of such information to any person, public or private, or to any officer or department of the Government without the express consent of the Contracting Officer or his duly authorized representative for security matters.

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CENTRAL INTELLIGENCE AGENCY

**CONTRACTING OFFICER'S
DESIGNATIONS AND FINDINGS**


AUTHORITY TO NEGOTIATE CONTRACT

The Central Intelligence Agency proposes to enter into a contract with ITIK Laboratories, Inc., Lexington, Massachusetts, for the procurement of a Convergent Stereo Photographic System to be utilized in a Satellite Reconnaissance Vehicle.

I hereby find that this procurement, Project CORONA (MERAL) is estimated to cost \$4,900,000.00, and is chargeable to Fiscal Year 1961 and 1962 funds being provided to the Agency by the Air Force and is for the work described above. I also find that this procurement is in the interest of National Defense and that it will be certified by the Director of Central Intelligence in accordance with procedure approved by the DSI on 15 December 1956, to be for objects of a confidential, extraordinary and emergency nature and therefore within the purview of procurement authority of the Agency as stated in Section 10(b) of Public Law 110, 81st Congress. Procurement by formal advertising of the services called for by the proposed Contract No. HS-450 would result in public disclosure of the nature and character of Photographic System and its operational use, and would thereby jeopardize the security classification of this project.

I hereby determine, as Contracting Officer for this contract, that the necessity and authority for negotiation of this contract have been adequately documented by proper Agency authority, and that the proposed contract must necessarily be negotiated without formal advertising.

SIGNED


Contracting Officer, DFD

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CS/DFD-BD,  cc

Distribution:

Orig - CS/DFD HS-450

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